

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOYCE MICHELLE DYER,
Plaintiff,

v.

UNKNOWN FEMALE PIERCE COUNTY
DISTRICT COURT CLERK,
Defendant.

Case No. C05-5693FDB

SECOND ORDER TO SHOW
CAUSE

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on plaintiff's filing of an application to proceed *in forma pauperis* and a civil rights complaint under 42 U.S.C. § 1983. To file a complaint and initiate legal proceedings plaintiff must pay a filing fee of \$250.00 or file a proper application to proceed *in forma pauperis*.

On October 20, 2005, the clerk received plaintiff's complaint. (Dkt. #1). That same day, the clerk sent plaintiff a letter informing her that she must either pay the \$250.00 court filing fee or submit a proper application to proceed *in forma pauperis* by November 25, 2005, or this matter could be subject to dismissal. (Dkt. #3). On November 18, 2005, the clerk received an *in forma pauperis* application from

1 plaintiff. On December 5, 2005, the court issued an order to show cause (Dkt. #5), finding that plaintiff's
2 application contained the following deficiencies.

3 Pursuant to 28 U.S.C. § 1915(a)(2):

4 A prisoner seeking to bring a civil action or appeal a judgment in a civil action or
5 proceeding without prepayment of fees or security therefor . . . shall submit a certified
6 copy of the trust fund account statement (or institutional equivalent) for the prisoner for
7 the 6-month period immediately preceding the filing of the complaint or notice of appeal,
8 obtained from the appropriate official of each prison at which the prisoner is or was
9 confined.

10 Plaintiff thus was required to submit a statement showing the balance and activity of her account for the
11 six-month period immediately preceding the filing of his complaint. Here, while plaintiff had submitted a
12 copy of her "inmate cash account file" at the Yakima County Department of Corrections and her "inmate
13 property inventory" form from the Pierce County Detention and Corrections Center, neither of those
14 documents showed the activity and balance of her prison or jail account(s) for the six months immediately
15 proceeding the filing of her complaint.

16 In addition, Local Rule CR 3(b) provides in relevant part:

17 At the time application is made under 28 U.S.C. § 1915 or other applicable acts of
18 Congress, for leave to commence any civil action or to file any petition or motion without
19 being required to prepay fees and costs or give security for them, each petitioner, movant
20 or plaintiff shall:

- 21 (1) Complete the in forma pauperis affidavit approved for use in this district; and
22 (2) File a written consent that the recovery, if any, in the action, to such amount as
23 the court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and
24 costs taxed against the plaintiff, and to his attorney the amount which the court allows or
25 approves as compensation for the attorney's services.

26 Plaintiff, however, had not submitted the written consent required by Local Rule CR 3(b)(2). The court gave
27 plaintiff until January 5, 2006, to correct these deficiencies.

28 On December 20, 2005, however, the postal service returned the copy of the court's order that was
sent to plaintiff at her last known address. (Dkt. #6). Apparently, plaintiff was no longer at that address,
but she did not inform the court of her change of address. Ten days later, the clerk received additional
documentation in support of her proposed complaint in an envelope which contained a different return
address than the original address she had provided to the court. (Dkt. #7).

On January 3, 2006, the clerk re-sent the copy of the court's order to show cause to plaintiff at this
new address. To date, however, plaintiff still has not responded to the court's order to show cause. The
court, nevertheless, shall grant plaintiff one more chance to cure the above deficiencies in her application to

1 proceed *in forma pauperis*.

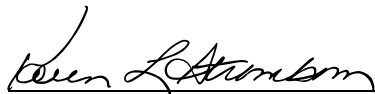
2 Accordingly, this court orders the following:

- 3 (1) Plaintiff shall seek to cure the above deficiencies by filing **no later than April 7, 2006**, (a) a
4 copy of her prison trust account statement pursuant to 28 U.S.C. § 1915(a)(2) showing the
5 balance and activity of her account(s) for the six-month period immediately preceding the
6 filing of her complaint; and (b) a copy of the written consent required by Local Rule CR
7 3(b).

8 **Failure to cure these deficiencies by the above date shall be deemed a failure to**
9 **properly prosecute this matter and the court will recommend dismissal of this matter.**

- 10 (2) The clerk is directed to send a copy of this Order to plaintiff.

11 DATED this 7th day of March, 2006.

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15 Karen L. Strombom
16 United States Magistrate Judge
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